



August 12, 1993

Case No. : 93-TLC-10

In the Matter of

ORME RANCH
Complainant

v.

U.S. DEPARTMENT OF LABOR
Respondent

DECISION ON MOTION FOR RECONSIDERATION

On August 11, 1993 the Respondent, U.S. Department of Labor filed a Motion for Reconsideration of my Decision and Order in this case dated August 3, 1993. The Respondent requested that I modify my order to require the Certifying Officer to accept the Complainant's application for alien employment certification and require the employer to go through the recruitment process as set forth in 20 CFR 655.105 and 655.106.

In writing my decision in this case I intended that the Certifying Officer's denial of the application should be reversed and that the Complainant Employer should go through the recruitment process to see if any U.S. workers were available for the goat herder position and, if not, as had been the case in the past, then the Employer could hire the alien it had previously employed. In the last sentence of my decision I wrote, "Moreover, I find that the Complainant has met the requirements for an alien employment certification for a goat herder position for which U.S. workers are not available and that its application should be granted." Apparently I should have used the word "accepted" instead of "granted", but in hurrying to meet the five day deadline required by the regulation I did not clarify that point sufficiently. This also confused Miss Bray, the Complainant's representative, who telephoned me for clarification and I told her that the Employer now had to go through the recruitment process required by the regulations. Accordingly, the Motion for Reconsideration is granted.

ORDER

The order of my Decision and Order in this case dated August 3, 1993 is hereby vacated and the following substituted therefor:

For the foregoing reasons, the action of the Certifying Officer and the Regional Administrator in denying the Complainant's Application for Alien Employment Certification for a goat herder's position at Orme Ranch from July 15, 1993 to June 15, 1994 is hereby reversed

and the Certifying Officer is directed to accept the application by authority of 20 CFR 655.112(a) so that the Complainant can proceed with its recruitment for U.S. workers as required by the Act and regulations in the temporary alien labor certification process.

ROBERT S. AMERY
Administrative Law Judge

RSA/yj